

**IN THE SUPERIOR COURT OF THE STATE OF DELAWARE**

STATE OF DELAWARE,	)		
	)		
v.	)	ID Nos.	1810005485
	)		1811002049
CHRISTAN WASHINGTON,	)		
	)		
Defendant.	)		

**ORDER**

This 7th day of January, 2020, upon consideration of Defendant Christan Washington's ("Defendant") *pro se* Motion for Sentence Modification and Reduction (the "Motion"),<sup>1</sup> the sentence imposed upon Defendant, and the record in this case, it appears to the Court that:

1. On July 8, 2019, Defendant pled guilty to Assault in the Third Degree, Disregarding a Police Officer's Signal, Kidnapping in the First Degree, and Reckless Endangering in the First Degree.<sup>2</sup>

2. On July 8, 2019, Defendant was sentenced on the combined convictions to a total of 33 years at Level V, suspended after five years for 20 years at Level IV, suspended after six months for 18 months at Level III.<sup>3</sup>

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<sup>1</sup> ID No. 1810005485, D.I. 21.

<sup>2</sup> ID No. 1810005485, D.I. 16; ID No. 1811002049, D.I. 16.

<sup>3</sup> ID No. 1810005485, D.I. 20.

3. On October 3, 2019, Defendant filed this Motion, pursuant to Delaware Superior Court Criminal Rule 35 (“Rule 35”), which requests the Court to modify the remainder of his Level V sentence. Defendant requests the Court to suspend two years of his Level V time for six months of Level IV Home Confinement or Work Release, followed by 12 months at Level III “with completion of DVCC”.<sup>4</sup>

4. To support this modification, Defendant contends that his sentence violates the Delaware Constitution’s Double Jeopardy Clause, and Title 11 *Del.C.* § 206, Method of prosecution when conduct constitutes more than one offense (“§206”). Specifically, Defendant argues that Assault in the Third Degree is a lesser included offense of Kidnapping in the First Degree and Reckless Endangering in the First Degree.

5. Rule 35(a) provides relief when a sentence imposed violates the “Double Jeopardy Clause.”<sup>5</sup> The Delaware Supreme Court has held that a motion for sentence modification that challenges a sentence based on double jeopardy violations is properly considered pursuant to Rule 35(a).<sup>6</sup>

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<sup>4</sup> D.I. 21 at 3.

<sup>5</sup> *Brittingham v. State*, 705 A.2d 577 (Del. 1998).


<sup>6</sup> *Bowers v. State*, 933 A.2d 1249 (Del. 2007).

6. However, Defendant entered into a guilty plea in this case, which “operates as a waiver of any double jeopardy claim surrounding the indictment.”<sup>7</sup> Therefore, the Court finds that the Defendant waived the claims that are raised in his Motion.<sup>8</sup>

7. The Court concludes that Defendant’s sentence is appropriate for all the reasons stated at the time of sentencing. No additional information has been provided to the Court that would warrant a reduction or modification of this sentence.

**IT IS HEREBY ORDERED** that the Defendant’s Motion for Sentence Modification and Reduction is hereby **DENIED**.

**IT IS SO ORDERED.**

  
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Sheldon K. Rennie, Judge

Original to Prothonotary

Cc: Christan Washington (SBI # 00464029), HRYCI, Wilmington, DE  
Jenna Milecki, DAG, Department of Justice, Wilmington, DE

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<sup>7</sup> *Id.*

<sup>8</sup> Additionally, the Court finds that Defendant’s claims are without merit because he committed separate criminal acts to support each crime in this case. 11 *Del.C.* § 206.